

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION**

Civil Action No. 4:11-CV-00094-BO

BRUCE BANNISTER; MAX DUTTON;
and MARION TOWLES;

Towles,

vs.

WAL-MART STORES EAST, L.P.,

Defendant.

**APPENDIX TO DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT REGARDING MAX
DUTTON'S CLAIMS**

A-5

Max Dutton Deposition Transcript Exhibit 8

Diet Plan given to T. Moore by M. Dutton

* 10NJA
Please get ON THE PROGRAM
FOR YOUR HEALTH

Outer Banks Urgent Care
Doctors Weight Loss
4923 S. Croatan Hwy
Nags Head, NC 27959
252-261-8040

1800 Calorie Restriction Diet, Higher Protein (25%) / Lower Carbohydrate (50%)
Meal Plan

Sample Menu for Insulin Resistance or Weight Loss

Refer to a Food Exchange List or substitute food items in the same food group for each other. The main goal of meal planning using the exchange lists is to control portion sizes and caloric intake.

Examples of portions:

Fruits- 4oz piece of fruit, ½ cup fresh fruit

Milk- 1 cup of low-fat milk or yogurt

Starch- 1 slice of whole grain bread, ¼ cup dry fiber cereal, 1/3 cup whole grain pasta or wild rice, 3 oz potato

Vegetable- (non-starchy) 1 cup raw vegetables, ¾ cups cooked vegetables

Meat- 1 oz increments of lean meat

Fats- 1 tbsp heart healthy monounsaturated olive oil, 1 oz of heart healthy nuts such as almonds, walnuts, or pecans, 1 oz cheese, 1 tbsp all high calorie condiments such as mayonnaise, or butter, 2 tbsp of low fat dressings

Breakfast

1 Fruit 2 Starches
2 Protein

Midmorning Snack

1 Milk
1 Fruit

Lunch

3 Vegetables
4 Protein
2 Starches 1 Fat

Afternoon Snack

1 Vegetable
2 Fat

Dinner

4 Lean Protein
1 Vegetable
2 Starches

Evening Snack

1 Fruit
1 Fat/Protein

Sample Menu

½ grapefruit and 1 whole grain Eng. muffin or toast
2 eggs or 4 egg whites

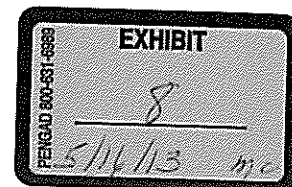
1 cup light yogurt
1 pomegranate

3 cups raw veggies (mixed salad)
4 oz chicken, turkey, tuna
2 slices whole grain bread, 2 tbsp low fat dressing.

1 tomato
2 tbsp mozzarella cheese, 1 tbsp olive oil

4 oz lean meat (chicken, fish, lean beef)
1 cup green vegetable or ¾ cup cooked
6 oz of sweet or baked potato

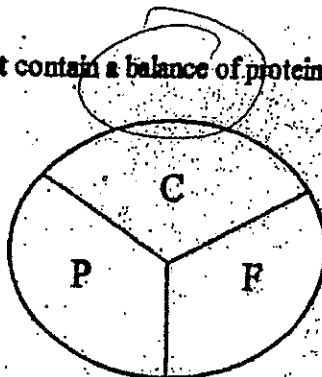
1 apple
2 tbsp natural peanut butter



Breakfast - Veg omelette, fruit + yogurt, PB, CC, Protein bar
 Lunch - Sandwich, Salad w/ Protein, Soup veggies.
 Dinner - meat + 2 veggies

Eating Well-Balanced Meals

Always eat meals that contain a balance of protein, carbohydrates, and fats.



Always select healthy choices of each group.

Nutrients 90%

✓ Good Protein Choices

Chicken
 Turkey
 Fish
 Lean beef
 Eggs
 Soy
 Cheese
 Tofu
 Beans

✓ Good Carbohydrate Choices

most fruits
 most vegetables
 whole-wheat grains

✓ Good Fat Choices

olive oil
 olives
 almonds
 avocado
 fats also occur naturally in foods

Bonus

Healthy fat

✓ at each meal

The majority of your diet should consist of low-fat protein and fruits and vegetables with a small portion made up by whole grains.

Avoid empty calories.

10%

Empty calories or anti-nutrients have no health benefit and cause harm to the body.

Empty calories include

Refined grains (white breads)
 Candy
 Cookies
 Chips
 Fries
 Pasta
 Soft drinks
 Crackers
 Pretzels
 Cake
 Alcohol

Etc...

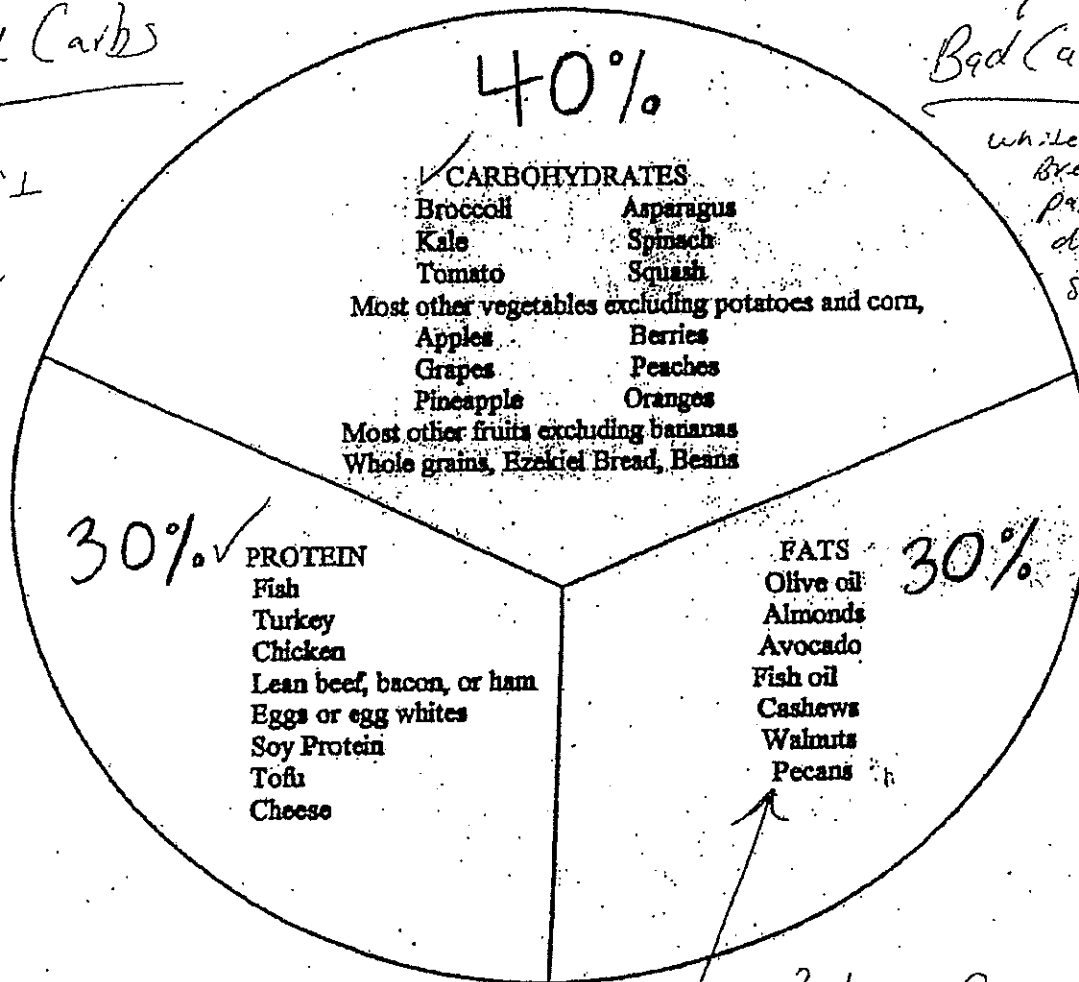
Making A Meal

Good Carbs

Fruit
+
Veg

Bad Carbs

white
Bread
Pasta
doughnut
Sweets
candies
cookies
chips
Blow
+
Sugars



Red meat
Butter
Creams

3 type fat

unsat. good

Sat. limit

Processed
Food

Beginners

For everyday you accomplish your goal, you get a point and at the end of ten days add up your score.

Days

GOALS	1	2	3	4	5	6	7	8	9	10	Total
No fried foods											/10
No Sodas + Swt tea											/10
3 bottles of H2O											/10
At least 1 green veggie											/10
At least 1 piece fruit											/10
Multivitamin Emerg-C											/10
No white carbohydrates											/10
No junk snacks (3 Cs)											/10
3 meals											/10
A protein at each meal											/10

SCORE: /100

Eating Your Vitamins

Vitamin A

Fatty Fish (mackerel)
Egg yolks
Cheese

Thiamine (B1)

Peanuts
Green Peas
Wheat Germ

✓ Riboflavin (B2)

Milk
Yogurt
Avocados

Niacin (B3)

Salmon
Beef
Peanut Butter

Pantothenic Acid (B5)

Beef Liver
Eggs
Mushrooms

Pyridoxine (B6)

Bananas
Chicken
Fish

Biotin (B7)

Almonds
Oat Bran
Peanut Butter

✓ Folic Acid (B9)

Spinach
Orange Juice
Beets

Cobalamin (B12)

Clams
Tuna
Yogurt

✓ Vitamin C

Broccoli
Strawberries
Oranges

Vitamin D

Shrimp
Fortified Milk
Canned Sardines

✓ Vitamin E

Spinach
Sunflower Oil
Wheat Germ

Eating Your Minerals

✓ Calcium

Yogurt
Tofu
Cheese

✓ Magnesium

Avocados
Bananas
Peanuts

Zinc

Oysters
Beans
Lean Meats

Potassium

banana 1x week
potato

High Nutrients

Low Calories

Food as Medicine

SUPER FOODS

Nutrients: Nuts are rich in healthy fats, protein, and fiber. They are also a good source of vitamin E, which helps protect our cells from damage. Nuts also contain magnesium, iron, and zinc. Nuts also contain healthy fats, which help to keep our arteries flexible and prevent heart disease. Nuts are also a good source of antioxidants, which help to prevent cancer and other diseases.

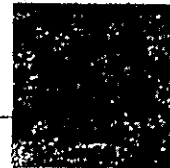
Apples: Apples have long been thought to be a healthy food, indeed many of us grew up hearing that they kept the doctor away! It is now known that apples contain the phytonutrient quercetin, which prevents the oxidation (damage) of LDL cholesterol thus lowering the risk of damage to our arteries and in turn, the risk of heart disease. They also contain pectin, a soluble fibre that seems to be very effective in lowering levels of blood cholesterol. Pectin also binds to heavy metals in our body, such as lead, and removes them from the gut.



Avocados: Avocados are a healthy food, indeed many of us grew up hearing that they kept the doctor away! It is now known that avocados contain the phytonutrient quercetin, which prevents the oxidation (damage) of LDL cholesterol thus lowering the risk of damage to our arteries and in turn, the risk of heart disease. They also contain pectin, a soluble fibre that seems to be very effective in lowering levels of blood cholesterol. Pectin also binds to heavy metals in our body, such as lead, and removes them from the gut.



Beets: Beets are not only low calorie but also packed full of nutrients. They contain high levels of carotenoids and flavonoids; anti-oxidants that help reduce the oxidation of LDL cholesterol, protecting our artery walls and reducing the risk of heart disease and stroke. It is one of the richest sources of folic acid, which helps to protect unborn babies from spina bifida, and is also thought to help lower homocysteine levels in the blood. Beetroot also contains the mineral silica, which helps the body to utilise calcium, so is therefore important for musculo-skeletal health and reducing the risk of osteoporosis. Many people juice beetroot for its cleansing and detoxifying properties.



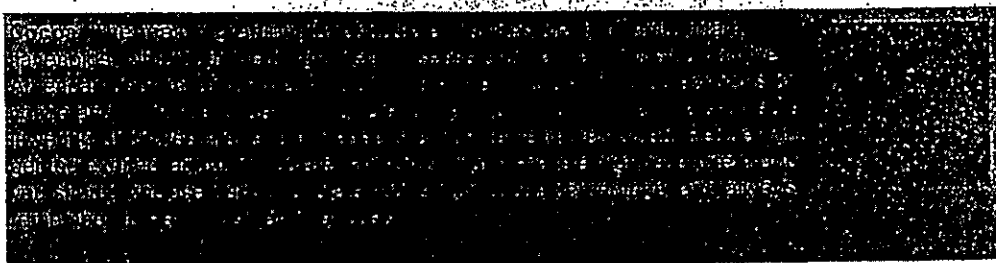
Blueberries: Blueberries are a healthy food, indeed many of us grew up hearing that they kept the doctor away! It is now known that blueberries contain the phytonutrient quercetin, which prevents the oxidation (damage) of LDL cholesterol thus lowering the risk of damage to our arteries and in turn, the risk of heart disease. They also contain pectin, a soluble fibre that seems to be very effective in lowering levels of blood cholesterol. Pectin also binds to heavy metals in our body, such as lead, and removes them from the gut.



Broccoli: If the other foods here are "super" foods then broccoli should be a "mega-super" food. Researchers are finding a wealth of healthy compounds in this vegetable, which include two power anti-cancer substances, sulforaphane and indole-3-carbinol. Sulforaphane destroys any carcinogenic compounds that you have ingested and then it creates enzymes that eat up any carcinogens left over from that reaction. Sulforaphane also kills the bacteria *Helicobacter pylori* which causes stomach ulcers and greatly increases the risks of gastric cancers according to a study at the John Hopkins University, Baltimore.



Indole-3-carbinol helps your body to metabolise oestrogen, potentially protecting against breast cancer. Broccoli is also a good source of beta-carotene and potassium, which helps lower your risk of heart disease. Many therapists suggest eating broccoli at least three times a week and now we know why.



Cranberries: Phenols are plant chemicals that lower oxidation of LDL (bad) cholesterol and cranberries possess one of the high levels of this healthy substance. Studies have indicated that the proanthocyanidins in cranberries can help protect against urinary tract infections, by preventing the bacterium *E. coli* from attaching to the bladder wall cells and infecting them. Some studies have also suggested that cranberries may be useful in aiding recovery from stroke. Although beneficial for most people, the Committee on Safety of Medicines has warned that those people on warfarin should limit consumption of cranberry juice.

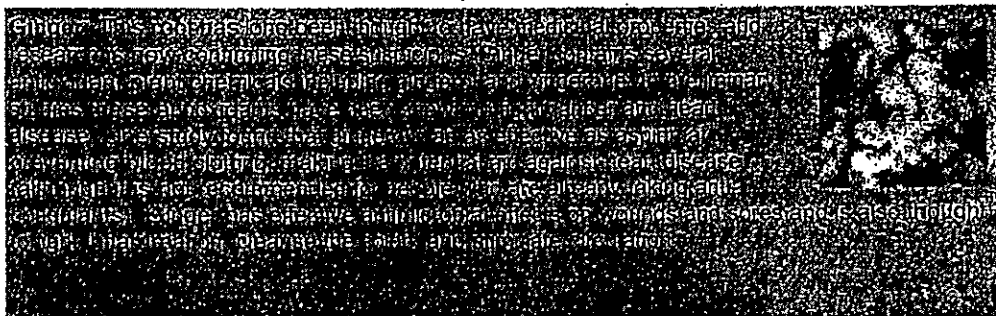


Garlic: Numerous clinical trials have shown garlic to be an excellent cancer fighter – studies suggest that it has the ability to prevent development of cancers of the breast, colon, skin, prostate, stomach and oesophagus. Garlic also helps stimulate the immune system by encouraging the growth of natural killer cells, which directly attack cancer cells. It also has the ability to kill the bacterium *Helicobacter pylori*, a major cause of ulcers and stomach cancer. A recent study at the University of East London claims that garlic has the ability to not only kill many of the antibiotic resistant strains of MRSA, the "hospital super bug", but is also able to destroy the newer super-super bugs that are resistant against the most

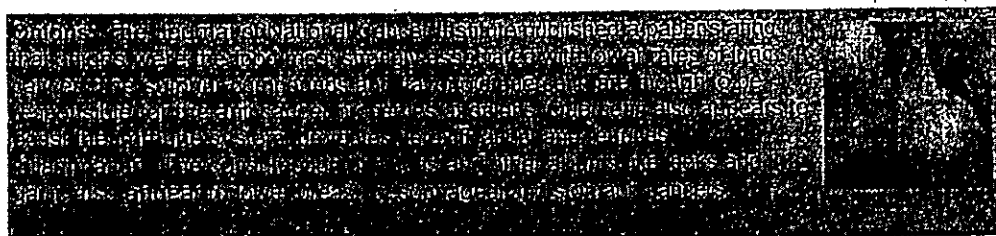


powerful antibiotics used against MRSA.

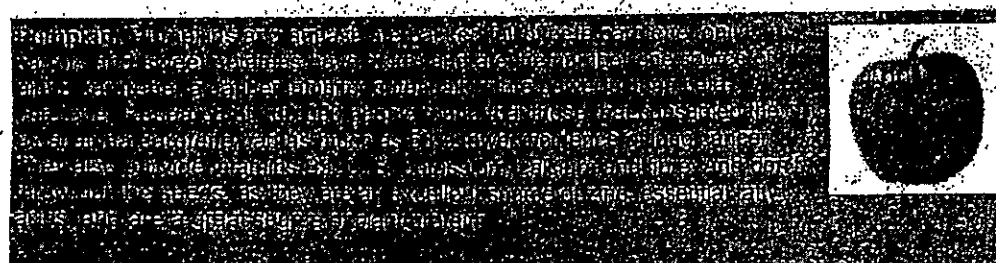
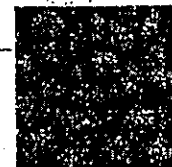
Finally, a new study has shown that eating raw garlic after heart surgery may help to limit the damage done to the heart, due to its strong anti-oxidant properties.



Olive Oil: Unlike other oils, olive oil is packed with hearty healthy monounsaturated fat as well as antioxidant polyphenols. Spanish researchers confirmed what we have suspected for years, that the Mediterranean diet, which is rich in vegetables and olive oil, can reduce the risk of heart attacks.



Oranges: Oranges prove even ordinary foods can offer an array of disease fighting compounds. Hesperetin, the main flavonoid in oranges has been shown to help protect against cancer, heart disease, infections and inflammation. The American Journal of Clinical Nutrition published a report connecting a higher intake of hesperetin with lower rates of heart disease. Oranges are also a rich source of pectin, which lowers cholesterol, potassium, which reduces blood pressure, and folic acid, which reduces levels of homocysteine, according to studies.



Exercise for Weight Loss

- Standard ACSM guidelines:
- Frequency *4-5 x week*
 - 3-5 times/wk, preferably daily
- Intensity *Light - mod*
 - 40/50 – 85% of HRR or VO_2R
- Time (duration) *30m*
 - 20-60 min
- Type (mode)
 - Aerobic exercise: walking, bicycling, etc.
drinking

How Far to that Candy Bar?

- Exercise is critical for weight loss, but snacking can easily overwhelm it. Here are distances of walking needed to burn off snacks

1 candy bar	3-4 miles
1 chocolate chip cookie (small)	1 mile
1 cup of ice cream	5 miles
10 potato chips	2 miles
1 plain M&M	120 yards

High Calorie Low Nutrients

↑ ↓

Keeping it simple: Caloric intake vs. energy expenditure.

All diets aside, take a minute to contemplate this age-old concept. If you consume more calories than you spend, you gain weight. In the same token, if you consume fewer calories than you burn, you lose weight. Can it be so simple? The answer is maybe. Not all calories are the same and therefore are not processed by the body identically. However, there may be more to this idea than you might think.

Exactly how many calories do we need and how many are we consuming? Adding a zero to your weight can give you a rough estimate of how many calories a day you take in. For example, it takes 1300 calories a day to maintain 130lbs, 1400 calories a day to maintain 140lbs, and so on. So it is no wonder most people are overweight when the average person consumes between 2000 and 2500 calories a day. The only way to account for these extra calories is to burn them by engaging in some form of exercise. For every calorie you burn, you can add it on to your caloric intake value (weight plus a zero) and not gain weight. Again if you are 130lbs and you burn 300 calories in an exercise bout, then you may consume approximately 1600 a day and still maintain 130lbs. However if you consume the 1600 a day without exercise, you will steadily gain weight until you eventually maintain 160lbs.

Although this is not an exact science, it is a good rule of thumb to remember next time you are going back for seconds. Think about how long you'll need to exercise for that extra serving. For every mile you jog you burn approximately 100 calories. One candy bar requires you walk about 3.5 miles to erase the caloric damage, one chocolate chip cookie approximately one mile, and one plain m&m just over 100 yards. The question becomes, is it worth it? The goal is to think twice before letting these empty calories add up. The whole purpose of food is to provide energy therefore let food fulfill its destiny before turning into extra pounds. The body needs a well balanced diet and each type of food provide energy differently. Fats provide us with 9kcal of energy per gram, carbohydrates 4 kcal/g, protein 4kcal/g, and alcohol 7 kcal/g. So again think twice about that low carb beer. It maybe low carb but the calories from alcohol are still there, so don't think there is free pass to over indulge.

The best scenario for weight maintenance and better health is combining a well-balanced diet with regular exercise. Diet plays a significant part in weight control as well as health. Although exercise may appear less important it has so a vital role in weight loss and weight maintenance. There is such a wide range of energy expended by people during exercise. Many people consume 2000 calories a day but exercise can be where all the difference is made. From no exercise at all, to 500-600 calories burned in an hour of exercise this may be the deciding factor for many people on whether they gain, lose, or maintain weight. Since there are so many overweight people and most are looking to lose weight, it may be that simple. Eat less, and/or exercise more. And since exercise is accompanied by so many health benefits from reducing your risk of heart disease and diabetes to building strong bones and preventing osteoporosis, well it only makes sense to do both. This will ensure that you have the best results for weight loss and health.



Walking Program

Week	Time	Frequency
1	20 min	3
2	25 min	4
3	30 min	5
4	35 min	6
5	40 min	7
6	45 min	7
7	50 min	7
8	55 min	7
9	60 min	7